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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,500	01/23/2006	Robert Ouliarin	OUL0004U	2065

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EXAMINER

JOHNSON, STEPHEN

ART UNIT PAPER NUMBER

3641

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/565,500

Applicant(s)

OULIARIN, ROBERT

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-17 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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1. This application contains claims directed to the following patentably distinct species: Species A is illustrated in fig. 1. Species B is illustrated in fig.2. Species C is illustrated in fig. 3. Species D is illustrated in fig. 4. The species are independent or distinct because each species contains features that patentably distinguish from the others absent evidence or admissions to the contrary.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement **must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added.** An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. The disclosure is objected to because of the following informalities: On page 3, line 29; and on page 4, line 1; the numerical indicator 104 should be 122.

Appropriate correction is required.

3. The drawings are objected to because item 124 in figs. 1-3 lacks a lead line. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to

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avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as **failing to comply with the written description requirement**. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

With regard to claim 17, applicant has no single embodiment that contains both a flash

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material for emitting light and a gas reservoir activated by a solenoid to release a gas to produce a sound. Note that the figure 4 embodiment is directed only to “a sonic grenade”.

6. Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as **failing to comply with the enablement requirement**. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

With regard to claim 17, applicant has no single embodiment that contains both a flash material for emitting light and a gas reservoir activated by a solenoid to release a gas to produce a sound. Note that the figure 4 embodiment is directed only to “a sonic grenade”.

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, **the pole (see claim 15) and digital camera with transmitter (see claim 16)** must be shown or the feature(s) canceled from the claim(s). **No new matter should be entered**.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. Claims 2, 8, 11, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, how does the claimed "at least one charge" relate to the previously claimed "flash material"? Please clarify. In claim 8, what structural item is intended to correspond to the claimed "an external switch disabling ... the flash ..."? In claim 11, the phrase "at least two emitters" should be claimed as [the at least two emitters] if the previously claimed emitters are intended. In claim 16, line 1, the punctuation mark "]" should be omitted.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-2, 4-5, 8, 10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kissel et al. (623) in view of Campagnuolo et al. (372).

Kissel et al. (623) discloses a diversion grenade comprising:

- | | |
|---|----|
| a) a body; | 12 |
| b) one or more charges of flash material; | 22 |
| c) an internal power source; | 18 |

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- d) a control circuit; 14
- e) a delay mechanism; col. 4, lines 54-56
- f) an externally operated trigger including a spring loaded lever and safety pin; 8, 9
- g) a tracer light; and 90
- h) a sound emitter. col. 5, lines 7-10

Kissel et al. apply as recited above. However, undisclosed is a housing that is transparent. Campagnuolo et al. teach a housing that is transparent (col. 1, lines 58-62). Applicant is substituting one type of housing for another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art to apply the teachings of Campagnuolo et al. to the Kissel et al. simulation grenade and have a simulation grenade with a transparent housing.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kissel et al. (623) in view of Campagnuolo et al. as applied to claims 1-2, 4-5, 8, 10, and 12 above, and further in view of Hall (330).

Kissel et al. and Campagnuolo et al. apply as previously recited. However, undisclosed is a pole attached to the grenade for fixing the location of the grenade. Hall teaches a pole attached to the grenade for fixing the location of the grenade (82, 84, 86). Applicant is selecting a means for fixing the location of a grenade and putting it to use as it is already commonly known to be used in this art. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Hall to the simulating grenade of Kissel et al. in view of Campagnuolo et al. and have a simulation grenade with an associated means for fixing its location.

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12. Claims 1-9, 11, and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ripingill Jr. et al. (404) in view of Campagnuolo et al. (372).

Ripingill Jr. et al. disclose a diversion grenade comprising:

- | | |
|---|----------------------------|
| a) a body; | 12, 16 |
| b) one or more charges of flash material; | 91, 95, 104, 106, 108, 110 |
| c) an internal power source; | 36 |
| d) a control circuit; | 28 |
| e) a delay mechanism; | col. 6, lines 27-30 |
| f) an externally operated trigger; | 44 |
| g) a tracer light; and | 58 or 104 or 106 |
| h) a sound emitter. | 58; col. 4, lines 5-9 |

Ripingill Jr. et al. apply as recited above. However, undisclosed is a housing that is transparent. Campagnuolo et al. teach a housing that is transparent (col. 1, lines 58-62).

Applicant is substituting one type of housing for another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art to apply the teachings of Campagnuolo et al. to the Ripingill Jr. et al. simulation grenade and have a simulation grenade with a transparent housing.

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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14. Claims 1-2, 4, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Owens (078).

Owens (078) discloses a diversion grenade comprising:

- | | |
|---|---------------------|
| a) a transparent body; | 10, 11, 12 |
| b) one or more charges of flash material; | 15 |
| c) an internal power source; | B1 |
| d) a control circuit; | see fig. 6 |
| e) a delay mechanism; | col. 2, lines 19-26 |
| f) an externally operated trigger; | 18, 19 |
| g) tracer lights; and | 16, 17 |

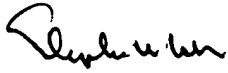
15. Claim 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned are 703-872-9306. As of July 15, 2005, the fax phone number for the organization where this application or proceeding is assigned will change to 571-273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ
October 3, 2006